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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,837	10/15/2001	Mark Wojtkiewicz	FSHR-037/00US	1710

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COOLEY GODWARD LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE, SUITE 1700
ONE FREEDOM SQUARE- RESTON TOWN CENTER
RESTON, VA 20190-5061

EXAMINER

MATHEW, FENN C

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,837

Applicant(s)

WOJTKIEWICZ ET AL. *CH*

Examiner

Fenn C Mathew

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group II in Paper No. 7 is acknowledged. As directed by the applicant claims 1-28 have been cancelled, and claims 36-53 have been substituted therefore.

Claim Objections

2. Claims 29-35 are objected to because of the following informalities: In claim 29, line 8, the recitation "said base" lacks positive antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 29-33, 35-42, and 46-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkinson (U.S. 5,788,608) in view of Herman (U.S. 6,503,177) and Greene (U.S. 6,131,593). Referring to claim 29, Wilkinson discloses a multi-purpose device including a first tubular member, a second tubular member disposed parallel to the first tubular member and configured for relative axial movement to said first tubular member, a handle (30) disposed on the first tubular member, a tip (see fig. 2) disposed

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on a lower end of the second tubular member, the tip having a lower surface adapted for contacting a ground surface. Wilkinson fails to teach footrests disposed on either of the tubular member, but does disclose in col. 5, lines 27-50, that the device may be used as a pogo stick. Herman discloses pogo stick structure, specifically teaching foot rests (150, 160) attached to an elongated tubular member. It would have been obvious to one having ordinary skill in the art at the time of invention to provide Herman with footrests as taught by Herman in order to allow to properly balance and use the device as a pogo stick. Furthermore, Wilkinson fails to teach a stabilizer releasably coupled to the tip. Greene teaches a stabilizer to be used for canes or the like including a body portion, a portion of the body portion enclosing the tip when the stabilizer is coupled to the tip of an elongated tubular member, the body portion adapted for engaging the ground surface at a plurality of ground surface engagement points. It would have been obvious to one having ordinary skill in the art to provide the modified Wilkinson device with a stabilizer in order to prevent unwanted tipping, and as a an added safety measure.

5. Referring to claim 30, Greene teaches the stabilizer having an opening to receive the tip of the elongated tubular member.

6. Referring to claim 31, Greene further teaches an integrally formed coupling device disposed within the opening of the stabilizer including a lip (ribs) formed adjacent the opening of the body portion, the lip adapted to mechanically engage the tip when the tip is disposed in the opening.

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7. Referring to claim 32, Greene discloses integrally formed arcuate leg members (see fig. 5).

8. Referring to claim 33, Greene discloses a stabilizer with a circular and flat body portion (upper portion is circular, lower portion is flat).

9. Referring to claim 35, Greene discloses the stabilizer having a circular body portion (18) and a recess formed in an upper surface of the stabilizer to receive the tip.

10. Referring to claim 36, Wilkinson discloses an elongate member, and a first ground engaging member (tip). Wilkinson fails to teach footrests disposed on the tubular member, but does disclose in col. 5, lines 27-50, that the device may be used as a pogo stick. Herman discloses pogo stick structure, specifically teaching foot rests (150, 160) attached to an elongated tubular member. It would have been obvious to one having ordinary skill in the art at the time of invention to provide Herman with footrests as taught by Herman in order to allow to properly balance and use the device as a pogo stick. Furthermore, Wilkinson fails to teach a second ground engaging means (stabilizer) releasably coupled to the first ground engaging means. Greene teaches a stabilizer to be used for canes or the like including a body portion, a portion of the body portion enclosing the tip when the stabilizer is coupled to the tip of an elongated tubular member, the body portion adapted for engaging the ground surface at a plurality of ground surface engagement points. It would have been obvious to one having ordinary skill in the art to provide the modified Wilkinson device with a stabilizer in order to prevent unwanted tipping, and as a an added safety measure.

11. Referring to claim 37, Greene further teaches an integrally formed coupling device disposed within the opening of the stabilizer including a lip (ribs) formed adjacent the opening of the body portion, the lip adapted to mechanically engage the tip when the tip is disposed in the opening.

12. Referring to claim 38, Wilkinson discloses the first ground engaging member having a contoured surface (see figs. 1, 2, 25)

13. Referring to claim 39, Green discloses the coupler including a contoured inner surface, the contoured inner surface of the coupler configured to engage with substantially all of the contoured outer surface of a first ground engaging member to frictionally engage the coupler to the first ground engaging member.

14. Referring to claim 40, Wilkinson discloses an embodiment including annular rings located on the first ground engagement means, and Green discloses an integrally formed coupling member having an inner surface including an annular groove, capable of receiving the annular ring of Wilkinson.

15. Referring to claim 41, Green discloses the second ground-engaging member including a plurality of leg members each having a ground-engaging portion.

16. Referring to claim 42, Green discloses the claimed invention except for the plurality of leg members being exactly symmetrical along an axis. The leg members of Greene are approximately symmetrical, the feature of having the leg members exactly symmetrical is considered a matter of obvious design choice within the level of the skilled artisan, as the configuration of Greene would perform equally well absent unexpected results.

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17. Referring to claim 46, Wilkinson discloses an elongated pole, a tip disposed at the lower end of the elongate pole, the tip having a lower surface for contacting the ground surface, the lower surface of the tip having a first contact surface area.

Wilkinson fails to teach footrests disposed on either of the tubular member, but does disclose in col. 5, lines 27-50, that the device may be used as a pogo stick. Herman discloses pogo stick structure, specifically teaching foot rests (150, 160) attached to an elongated tubular member. It would have been obvious to one having ordinary skill in the art at the time of invention to provide Herman with footrests as taught by Herman in order to allow to properly balance and use the device as a pogo stick. Furthermore, Wilkinson fails to teach a base releasably coupled to the tip. Greene teaches a base to be used for canes or the like including a body portion, a portion of the body portion enclosing the tip when the base is coupled to the tip of an elongated tubular member, the body portion adapted for engaging the ground surface at a plurality of ground surface engagement points. It would have been obvious to one having ordinary skill in the art to provide the modified Wilkinson device with a base in order to prevent unwanted tipping, and as a an added safety measure.

18. Referring to claim 47, Greene further teaches an integrally formed coupling device disposed within the opening of the stabilizer including a lip (ribs) formed adjacent the opening of the body portion, the lip adapted to mechanically engage the tip when the tip is disposed in the opening.

19. Referring to claim 48, Greene teaches the coupler including protrusions that are slightly inclined, the coupler adapted to mechanically engage the tip.

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20. Referring to claims 49-50, Greene discloses an integrally formed coupler defining a sleeve portion and a rim formed about an end of the sleeve portion, the coupler engaging the tip to releasably couple the base to the tip, wherein the coupler includes a plurality of ribs (coupler sections).

21. Claims 34, 43-45, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkinson in view of Herman and Greene as applied to claims 29, 36, and 46 above, and further in view of Berlin (U.S. 5,992,434). The modified Wilkinson device discloses the claimed invention except for specifics regarding the shape of the stabilizer device. Berlin teaches a stabilizer device having a frustum-conical shape, with a lower portion having a circular shape, and a recess at the uppermost portion to receive the tip of an elongated member. It would have been a matter of obvious design choice to provide the stabilizer of Berlin in place of the stabilizer of Greene as an alternative means of providing stability, as the stabilizer of Berlin performs equally well, absent unexpected or undesired results.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Matsuda U.S. 3,731,920

Miihlroth U.S. 2,995,377

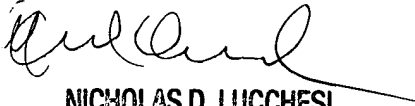
Newman U.S. 3,671,988

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C Mathew whose telephone number is (703) 305-2846. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

gcm

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January 5, 2004